

3 FAM 7430 ANNUAL AND SICK LEAVE

*(CT:PER-678; 06-22-2012)
(Office of Origin: HR/OE)*

3 FAM 7431 AUTHORITY

*(TL:PER-237; 1-1-95)
(Uniform State/USAID/USIA/Commerce/Agriculture)
(Applies to Foreign Service Nationals Only)*

Section 408 of the Foreign Service Act of 1980, provides that annual and sick leave and other leaves of absence with pay for FSNs may be in accord with prevailing law and employment practices in the locality of employment, notwithstanding statutory limitations contained in title 5 of the United States Code.

3 FAM 7432 POLICY

*(TL:PER-237; 1-1-95)
(Uniform State/USAID/USIA/Commerce/Agriculture)
(Applies to Foreign Service Nationals Only)*

- a. The heads of overseas establishments are responsible for adopting joint interagency leave practices within a country or locality.
- b. Effective immediately, and no later than January 8, 1995, overseas establishments must adopt locally prevailing leave benefits in lieu of any benefits patterned after the provisions of the Annual and Sick Leave Act of 1951 (5 U.S.C. 6301 - 6311), except as provided herein. Upon concurrence by all affected Foreign Affairs agencies, the Director General may establish an effective date later than January 8, 1995, for implementation of locally prevailing leave benefits. Although there may be employees who are subject to a U.S. Government style leave plan, new hires and those employees covered under local social security must participate in the local leave plan.
- c. Overseas establishments may not combine one or several features of the U.S. leave system together with features of the locally prevailing leave system into a post leave plan.
- d. Upon adoption of a new local leave plan, Mission management must notify each FSN of details of the new leave plan as soon as feasible after Washington headquarters approval (PER/FSN) has been received. Instructions regarding "grandfathering" of any category of employee under previously approved leave systems will be provided in accordance with section 3 FAM 7433.

3 FAM 7433 POLICY IMPLEMENTATION

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Concurrent with approval of a post local leave plan, PER/FSN will provide instructions for conversion to the new plan and coordination with local social security.

3 FAM 7434 PREPARATION, SUBMISSION, AND APPROVAL OF A LOCALLY PREVAILING LEAVE PLAN

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

- a. When a post is considering adoption of the locally prevailing leave system, the chief of mission should direct an interagency review at post of local leave practices, clearly identifying those required by local law. All the organizations included in the last full scale salary and benefits survey should be included in the study of prevailing leave practices. (See 3 FAH-2H, Chapter 3 for specific procedures.)
- b. Based on data submitted in accordance with section 3 FAH-2H, Chapter 3, PER/FSN will provide a draft plan. Post, in coordination with all agencies, should review the plan in light of post needs, constraints, and discretion it wishes to exercise.
- c. Washington (PER/FSN) approval is required prior to implementation of a locally prevailing leave plan. Copies of the plan and attached materials should be submitted in accordance with 3 FAH-2H, Chapter 3. PER/FSN will coordinate the review of the proposed plan and related material and advise the mission of its decision.

3 FAM 7435 ANNUAL AND SICK LEAVE ACCRUAL

3 FAM 7435.1 Annual Leave

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

- a. For employees under an approved local leave plan, accrual, credit, and carryover of annual leave is in accordance with post's authorized leave plan.

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- b. For guidance on accrual of annual leave under a U.S. Government style leave plan with 40 hours basic work week, refer to 3 FAM 3410 (to be published) and 3 FAH-1 H-3410.
- c. For employees whose workweeks are other than the officially established basic workweek (see 3 FAM 7412), the accrual rate shall be increased or decreased in proportion to the number of hours in excess of or less than the basic workweek.

3 FAM 7435.2 Sick Leave

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

- a. For employees under an approved local leave plan, accrual credit, and carryover of sick leave is in accordance with post's authorized leave plan.
- b. For guidance on accrual of sick leave under a U.S. Government style leave plan refer to 3 FAM 3420 (to be published) and 3 FAH-1 H-3420.
- c. For employees with a workweek other than that established under 3 FAM 7412, accrual rate shall be prorated in proportion to the number of hours in the basic workweek. Fractions of hours will be rounded to the next higher whole hour.

3 FAM 7435.3 Crediting of Part-Time Accruals

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

To accrue leave, a part-time employee (section 3 FAM 7412.1) must serve under an established tour of duty for each of the two administrative workweeks in each biweekly pay period. No leave accrual credit is given for fractional parts of biweekly pay periods either when an employee enters on duty or separates. A part-time employee who completes a full biweekly pay period may carry over from one pay period to the next those hours of service in a pay status which do not equal the number necessary for a minimum leave credit (1 hour) until sufficient service is rendered to earn 1 hour's credit. If the employee changes to full-time status and has insufficient credit to earn the minimum of 1 hour, the fractional hours of service are lost.

3 FAM 7435.4 Charging Leave

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Leave used is charged on the same proportion as earned. For example, while an employee with a 40-hour workweek is charged 40 hours for a week's absence, an employee with a 72-hour workweek is charged 72 hours for a week's absence.

3 FAM 7435.5 Adjustment of Leave balance Upon Change in Full-Time Employee's Workweek

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Annual and sick leave balances are not adjusted when the number of hours in a full-time employee's workweek is changed. However, accrual rates are adjusted as described in 3 FAM 3420 (to be published) and 3 FAH-1 H-3400.

3 FAM 7436 RESTORATION OF ANNUAL LEAVE

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

- a. For employees under either a U.S. Government style or local leave plan, annual leave which has previously been scheduled in writing and subsequently is canceled by the employee's supervisor due to work requirements at post and which, otherwise, is subject to forfeiture, may be restored to the employee's account at the beginning of the next leave year for use during that leave year. Restoration of canceled annual leave must be approved, in writing by, the employee's supervisor and by an appropriate U.S. officer, and reported to the timekeeper. Documentation regarding restoration should be forwarded to the servicing RAMC.
- b. Annual leave restored under this provision must be scheduled and used by the end of the leave year in which restored. It may not be carried forward from year to year.

3 FAM 7437 LUMP-SUM LEAVE PAYMENTS

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- a. FSN employees covered by the post's leave plan established in accordance with section 7434 may receive compensation for unused leave in accordance with the published provisions of that plan. In the absence of a provision in the post's leave plan for lump-sum annual leave payment upon separation, no such payment shall be made.
- b. Lump sum payment for unused annual leave accrued under U.S. Government style leave plan is limited to 240 hours for employees with a 40 hour workweek. That limit is adjusted up or down based on the number of hours in the employee's workweek (e.g., 288 hours for an employee on a 48 hour workweek). This limit is exclusive of leave restored under the provisions of section 7436. Payment for leave in excess of 240 hours (plus restored leave, if any) may be authorized only if post has an approved leave policy based on local practice which permits such payment. Such policy must be approved in advance by PER/FSN.
- c. There is no basis in U.S. law for payment for unused sick leave. Payment should only be made if required by local labor law and included in the post local compensation plan.
- d. The remarks section of the Notification of Personnel Action which documents any separation of an FSN employee should specify:
 - (1) The number of hours of unused annual and unused sick leave accrued by the FSN employee at the time of separation;
 - (2) The total number of hours for which a lump-sum payment is authorized, if applicable; and
 - (3) The annual salary rate (in local currency with U.S. dollar equivalent) paid at the time of separation.
- e. Post should recover any money (including value of property) which an FSN employee owes to the U.S. Government at the time of separation. Such sums may be deducted from employee's final salary payment. See also 4 FAM and 3 FAM 3333.3 (to be published).

3 FAM 7438 AND 7439 UNASSIGNED